Wirt Petition no. 162 (S/S) Of 2003

Smt. Ganeshi Devi---------- Petitioner

Versus

Union of India and others---------- Respondents

Hon'ble M.M. Ghildiyal J.

Heard Sri D.S. Patni learned counsel for the petitioner and Sri Rakesh Thapaliyal Thapaliyal learned Standing Counsel Union of India.

Vide order dated 09.08.2002 the candidature of the petitioner was rejected by the respondents for appointment on compassionate ground. This order was communicated to the petitioner vide letter dated 06.02.2003. The petitioner has challenged both these orders.

Twice time was granted to the learned Standing Counsel for Union of India to file counter affidavit but no counter affidavit has been filed. The contention of the petitioner is that her husband who was a Chaukidar with the respondent no.4 died on 30.12.1996. The petitioner preferred an application for appointment on compassionate ground on 04.07.1997 and by letter dated 27.05.I2002 the petitioner was communicated that the name of the petitioner finds place on the top of the list of the approved Board proceedings for appointment on the post of Mazdoor. This letter has been annexed by the petitioner as annexure 6 to the writ petition. On 30.05.2002 the petitioner was given appointment on the post of Mazdoor (unskilled). However, the order of appointment has been cancelled on the ground that no post is vacant under 5 per cent quota. The petitioner has submitted that inspite of stand taken by the respondents is that under 5 per cent quota no post is vacant and the petitioner cannot be given appointment, the appointment has been provided to some other person in the same year on compassionate ground. Since there is no counter affidavit the learned counsel for the respondents is not in a position to deny this fact.

For the reasons stated above the writ petition is allowed and the respondents are directed to reconsider the case of the petitioner for appointment on compassionate ground with the respondents if any person has

been given any appointment under 5 per cent quota in the same year for which the petitioner has been denied. No order as to costs.

(**M.M. Ghildiyal J.**)

August 05, 2003
MPS